

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:09-CV-68-D

HOWARD DALE TOLBERT,)	
)	
Plaintiff,)	
)	
v.)	ORDER
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	

On December 23, 2010, Magistrate Judge Gates issued a Memorandum and Recommendation (“M&R”). In that M&R, Judge Gates recommended that plaintiff’s motion for judgment on the pleadings be granted, that defendant’s motion for judgment on the pleadings be denied, and that the action be remanded to the Commissioner. No party filed objections to the M&R.

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (alteration in original) (emphasis removed) (quotation omitted). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Id. (quotation omitted).

The court has reviewed the M&R, the record, and the briefs. The court is satisfied that there is no clear error on the face of the record. Plaintiff’s motion for judgment on the pleadings is GRANTED, defendant’s motion for judgment on the pleadings is DENIED, and the action is

REMANDED to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings as set forth in the M&R.

SO ORDERED. This 13 day of January 2011.



JAMES C. DEVER III
United States District Judge